IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1277 OF 2006

1. Santosh Narayan Gavade
and anr. ....Applicants.

v/s

The State of Maharashtra ....Respondent.

Mr. Rahul S. Kate for the applicants.
Ms. Rajeshree M. Gadhvi, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 27th April, 2006

P.C.

1. Heard the learned Counsel for the applicants and the learned APP for the State.

2. The applicant was arrested in connection with C.R. No.260 of 2005 registered at Phaltan Police Station for the offence punishable under section 302, 304(B), 498(A) read with section 34 of the Indian Penal Code.

3. It is alleged that the applicant No.1 assaulted his wife and, thereafter, pushed her in well as a result of which she drowned and died.

4. The learned Counsel for the applicants has invited my attention to the statements of witnesses. He

submitted that the witnesses have not supported the case of the prosecution. One of the witnesses, Vithabai has stated that the deceased accidently fell in the well and, as a result, she drowned and died. The other witnesses also have stated that the applicant has never ill-treated the deceased. He submitted that only the parents of the deceased who are interested witnesses have alleged in their statements that the applicant No.1 was ill-treating the deceased. He submitted that the charge-sheet has now been filed and the applicants, therefore, be released on bail.

5. I have perused the statements of witnesses as also the post-mortem report and the inquest panchanama. It is no doubt true that there are several injuries on the person of the deceased. However, the fact remains that the statements of witnesses who were present at the time of incident do not support the prosecution case. In this view of the matter, the applicants have made out a case for bail.

6. The applicants, therefore, be released on bail in the sum of Rs 5000/- each with one or two sureties in the like amount each. The applicants shall report to the Phaltan Police Station once in a month. The

applicants shall not tamper with the evidence or threaten any of the witnesses.

7. The trial Court shall not be influenced by any observation made by this Court while deciding this application and the same may not be construed as an expression of opinion on the merits of the case. The trial court shall decide the case on its own merits and in accordance with law.

8. Application is accordingly disposed of.

V.M. KANADE, J.